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COMPILATION OF
FEDERAL ORDER NO. 50
REGULATING THE HANDLING OF MILK
IN THE
CENTRAL ILLINOIS MARKETING AREA
EFFECTIVE JULY 1, 1971
AND
OTHER SELECTED ITEMS

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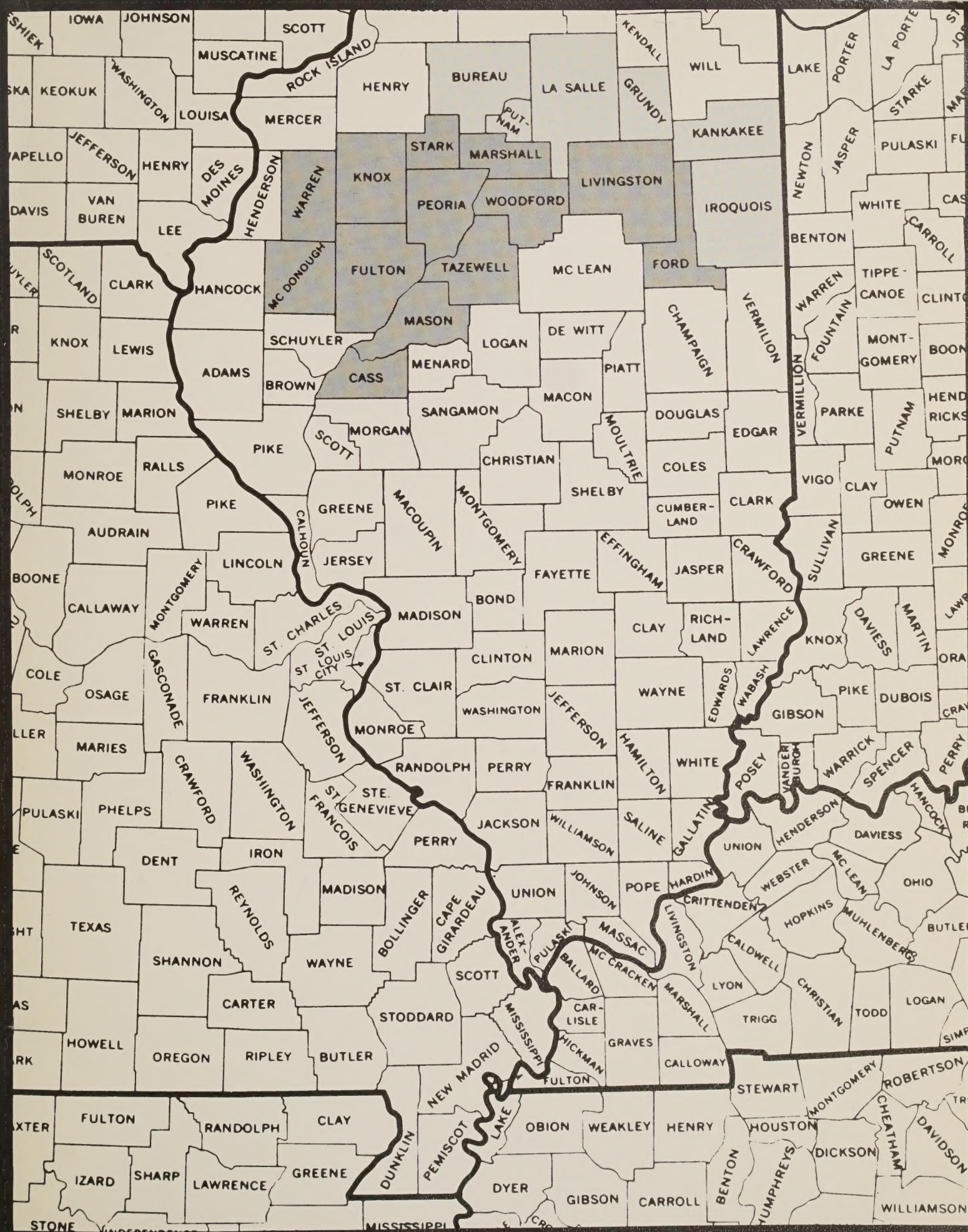
CENTRAL ILLINOIS, MARKETING AREA

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UNITED STATES DEPARTMENT OF AGRICULTURE
CONSUMER AND MARKETING SERVICE
DAIRY DIVISION

FEDERAL ORDER NO. 50

ORDER REGULATING THE HANDLING OF MILK
IN THE CENTRAL ILLINOIS MARKETING AREA

General Provisions and Definitions

Sec.

- 1050.1 General provisions.
- 1050.5 Cooperative association.
- 1050.6 Central Illinois marketing area.
- 1050.7 Producer.
- 1050.8 Producer-handler.
- 1050.9 Handler.
- 1050.10 Distributing plant.
- 1050.11 Supply plant.
- 1050.12 Pool plant.
- 1050.13 Nonpool plant.
- 1050.14 Producer milk.
- 1050.15 Other source milk.
- 1050.16 Fluid milk product.
- 1050.17 Route.
- 1050.18 Chicago butter price.
- 1050.19 Reload point.
- 1050.19a Filled milk.

Market Administrator

- 1050.22 Additional duties of the market administrator.

Reports

- 1050.30 Reports of receipts and utilization.
- 1050.31 Other reports.
- 1050.32 Payroll reports.
- 1050.33 Reports to cooperative associations.

Classification

- 1050.40 Skim milk and butterfat to be classified.
- 1050.41 Classes of utilization.
- 1050.43 Transfers and diversions.
- 1050.44 Computation of skim milk and butterfat in each class.
- 1050.45 Allocation of skim milk and butterfat classified.
- 1050.46 Shrinkage.

Minimum Prices

- 1050.50 Basic formula price.
- 1050.51 Class prices.
- 1050.52 Butterfat differentials to handlers.
- 1050.53 Location adjustments to handlers.
- 1050.54 Use of equivalent prices.

Application of Provisions

Sec.	
1050.60	Producer-handlers.
1050.61	Plants subject to other Federal orders.
1050.62	Obligations of handler operating a partially regulated distributing plant.

Determination of Uniform Price to Producers

1050.70	Computation of the net pool obligation of each pool handler.
1050.71	Computation of the uniform price.

Payments

1050.80	Time and method of payment for producer milk.
1050.81	Butter differential to producers.
1050.82	Location differentials to producers and on nonpool milk.
1050.83	Producer-settlement fund.
1050.84	Payments to the producer-settlement fund.
1050.85	Payments out of the producer-settlement fund.
1050.86	Adjustment of accounts.
1050.87	Expense of administration.
1050.88	Marketing services.
1050.89	Adjustment of overdue accounts.

Market Administrator

1050.92	Additional duties of the market administrator.
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Reports

1050.90	Reports of receipts and utilization.
1050.91	Other reports.
1050.92	Payroll reports.
1050.93	Reports to cooperative associations.

Classification

1050.40	Skim milk and butterfat to be classified.
1050.41	Classes of utilization.
1050.42	Transfers and diversions.
1050.43	Computation of skim milk and butterfat in each class.
1050.44	Allocation of skim milk and butterfat classified.
1050.45	Shrinkage.

Minimum Prices

1050.50	Basic formula prices.
1050.51	Class prices.
1050.52	Butterfat differentials to handlers.
1050.53	Location adjustments to handlers.
1050.54	Use of equivalent prices.

General Provisions and Definitions

§ 1050.1 GENERAL PROVISIONS.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

§ 1050.5 COOPERATIVE ASSOCIATION.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

- (a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and
- (b) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1050.6 CENTRAL ILLINOIS MARKETING AREA.

The "Central Illinois marketing area" hereinafter called the "marketing area" means all the territory within the following counties all of which are in the State of Illinois together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county, or municipal governments located wholly or partially within such counties:

Zone I

Cass.	Marshall.	Stark.
Ford.	Mason.	Tazewell.
Fulton.	McDonough.	Warren.
Knox.	Peoria.	Woodford.
Livingston.		

Zone II

Bureau.	Iroquois.	LaSalle.
Grundy.	Kankakee.	Putnam.

§ 1050.7 PRODUCER.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1050.14.

§ 1050.8 PRODUCER-HANDLER.

"Producer-handler" means a person who:

- (a) Operates a distributing plant and processes milk from his own farm production and who distributes all or a portion of such milk in the marketing area on a route but who receives no milk from other dairy farmers or fluid milk products from nonpool plants: Provided, That the skim milk and butterfat disposed

of in the form of fluid milk products designated as Class I milk pursuant to § 1050.41(a) does not exceed the skim milk and butterfat, respectively, in the form of milk from his own farm production, and in the form of fluid milk products from pool plants of other handlers, allowing for inventory derived from such sources; and

- (b) Assumes as his personal enterprise and risk the processing and distributing of fluid milk products and the maintenance, care and management of dairy animals and other resources necessary to produce his own farm milk production.

§ 1050.9 HANDLER.

"Handler" means:

- (a) Any person in his capacity as the operator of a pool plant;
- (b) Any person in his capacity as the operator of a partially regulated distributing plant;
- (c) Any cooperative association with respect to milk of its members diverted for its account from a pool plant to a non-pool plant pursuant to § 1050.14;
- (d) Any cooperative association with respect to the milk of its members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association. The cooperative association, prior to the 1st day of the month of delivery, shall notify in writing the market administrator and the handler to whose plant the milk is delivered, that it will be the handler for the milk. For purposes of location adjustments to producers, milk so delivered shall be deemed to have been received by the cooperative association at a pool plant at the location of the pool plant to which it is delivered;
- (e) Any person in his capacity as the operator of an unregulated supply plant; and
- (f) A producer-handler, or any person who operates an other order plant described in § 1050.61.

§ 1050.10 DISTRIBUTING PLANT.

"Distributing plant" means any plant at which fluid milk products are processed and packaged and from which Grade A fluid milk products are disposed of on a route(s) in the marketing area during the month.

§ 1050.11 SUPPLY PLANT.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1050.12 POOL PLANT.

"Pool plant" means:

- (a) A distributing plant, other than that of a producer-handler or one described in § 1050.61, from which during the month:
 - (1) Disposition of fluid milk products, except filled milk, in the marketing area on routes is equal to 10 percent or more of its Grade A receipts from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1050.9(d), or from which an average of not less than 7,000 pounds per day of fluid milk products, except filled milk, is distributed on routes in the marketing area; and
 - (2) Total disposition of fluid milk products, except filled milk, on routes is equal to 50 percent or more of its Grade A receipts from dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1050.9(d) during the months of August through February and 40 percent during all other months;
- (b) A supply plant from which during the month an amount equal to 50 percent or more of its receipts of Grade A milk from dairy farmers and from cooperative associations in their capacity as handlers pursuant to § 1050.9(d) is moved to and received at a pool plant(s) described in paragraph (a) of this section which have at least 50 percent Class I use (not including filled milk) of the total of such supply plant milk and producer milk receipts in the months of August through February and 40 percent in other months;
- (c) Any supply plant which qualified pursuant to paragraph (b) of this section in each of the immediately preceding months of September through January shall be a pool plant for the months of February through August unless the operator of such plant notifies the market administrator in writing before the first day of any such month of his intention to withdraw such plant as a pool plant, in which case such plant shall thereafter be a nonpool plant until it again meets the shipping requirements set forth in paragraph (b) of this section; and
- (d) For purposes of determining pool plant status pursuant to this section, Grade A receipts from dairy farmers shall include all quantities of milk diverted pursuant to § 1050.14 (b) and (c) by an operator of a pool plant.

§ 1050.13 NONPOOL PLANT.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

- (a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.
- (b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.
- (c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.
- (d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are shipped to a pool plant.

§ 1050.14 PRODUCER MILK.

"Producer milk" means all skim milk and butterfat contained in milk of any producer, other than milk received at a pool plant by diversion from a plant at which such milk is fully subject to the pricing and pooling under the terms or provisions of this or any other order issued pursuant to the Act which is:

- (a) Received during the month:
 - (1) At a pool plant from producers or from a cooperative association as a handler pursuant to § 1050.9(d); and
 - (2) By a cooperative association as a handler pursuant to § 1050.9(d) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1050.41(b)(7) or as Class I shrinkage;
- (b) Diverted by a handler from a pool plant for the account of the plant operator to another pool plant(s) for not more days of production of such producer's milk than is physically received at a pool plant(s) from which diverted. For pricing purposes such diverted milk shall be deemed to be received by the diverting handler at the location of the plant to which diverted;
- (c) Diverted from a pool plant to a nonpool plant that is not an other order plant or to a nonpool plant that is an other order plant if diverted as Class II milk, subject to the conditions of this paragraph. For pricing purposes, milk so diverted shall be deemed to be received at the plant from which diverted, unless the plant to which the milk is diverted is located more than 110 miles from the city hall in Peoria, Ill. (by shortest highway distance as determined by the market administrator) in which case the milk shall be deemed to be received by the diverting handler at the location of the plant to which diverted;

- (1) During May, June and July the operator of a pool plant or a cooperative association may divert the milk production of a producer on any number of days;
- (2) Subject to the conditions set forth in subparagraph (4) of this paragraph, during the months of August through April the operator of a pool plant may divert the milk of a producer for not more days of production of such producer's milk than it is physically received at the pool plant from which diverted: Provided, That the total quantity of producer milk diverted does not exceed 35 percent of the physical receipts of producer milk at the handler's pool plant during the month, exclusive of milk of producers who are members of a cooperative association that is diverting milk;
- (3) Subject to the conditions set forth in subparagraph (4) of this paragraph, during the months of August through April a cooperative association may divert the milk of its individual member producers for not more days of production of each producer's milk than is physically received at a pool plant: Provided, That the total quantity of producer milk diverted does not exceed 35 percent of its member milk physically received at pool plants during such month;
- (4) In the case where a cooperative association has notified the market administrator and the handler in writing prior to the first day of the month that milk of specified member producers will not be diverted by the cooperative and is not to be included in computing the cooperative association's diversion percentage for the month, milk of such producers shall be deducted from the cooperative's total receipts of member milk for the purposes specified in subparagraph (3) of this paragraph and added to the total milk receipts included in computing the diversions of the pool plant handler who receives their milk for the purposes specified in subparagraph (2) of this paragraph;
- (5) When milk is diverted in excess of the limits specified in subparagraphs (2) and (3) of this paragraph, eligibility as producer milk under this section shall be forfeited on the excess quantity. In such event the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If a handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler; and

- (6) Milk diverted to an other order plant under the conditions specified in this section shall be producer milk pursuant to this section only if it is not producer milk under such other order.

§ 1050.15 OTHER SOURCE MILK.

"Other source milk" means all skim milk and butterfat contained in:

- (a) Receipts during the month of fluid milk products except:
- (1) Fluid milk products received from pool plants;
 - (2) Producer milk; and
 - (3) Inventory of fluid milk products on hand at the beginning of the month;
- (b) Products, other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month; and
- (c) Any disappearance of nonfluid milk products in a form in which they may be converted into a Class I product and which are not otherwise accounted for under this order.

§ 1050.16 FLUID MILK PRODUCT.

"Fluid milk product" means milk, skim milk, buttermilk, plain or flavored milk and milk drinks (unmodified or fortified), including "dietary milk products" and reconstituted milk or skim milk; filled milk; concentrated milk not in hermetically sealed containers, cream (sweet or sour), and mixtures of cream and milk or skim milk, but not including the following: Aerated cream products, frozen storage cream, sour cream and sour cream mixtures not labeled Grade A, eggnog, yogurt, frozen dessert mixes, evaporated or condensed milk, and sterilized fluid milk products in hermetically sealed containers. This definition shall not include a product which contains 6 percent or more nonmilk fat (or oil).

§ 1050.17 ROUTE.

"Route" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product to a retail or wholesale outlet (a) other than a pool plant or a nonpool plant, or (b) a commercial food processor pursuant to § 1050.41(b)(2).

§ 1050.18 CHICAGO BUTTER PRICE.

"Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the mid-point of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

§ 1050.19 RELOAD POINT.

"Reload point" means a location at which facilities approved by a duly constituted health authority, only for the transfer of milk from one tank truck to another and for the washing of tank trucks and at which milk moved from the farm in a tank truck is commingled in a tank truck with milk from other tank trucks before entering a milk plant: Provided, That reloading facilities on the premises of a plant having equipment for the receiving, cooling, storing and processing of milk, which equipment is in current use during the month, shall be considered a supply plant rather than a reload point.

§ 1050.19a FILLED MILK.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk, (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product; and contains less than 6 percent nonmilk fat (or oil).

Market Administrator

§ 1050.22 ADDITIONAL DUTIES OF THE MARKET ADMINISTRATOR.

In addition to the duties specified in § 1000.3(c) of this chapter, the market administrator shall perform the following duties:

(h) Publicly announce on or before:

- (1) The 6th day of each month, the minimum price for Class I milk, pursuant to § 1050.51(a), and the Class I butterfat differential, pursuant to § 1050.52(a), both for the current month; and the minimum price for Class II milk, pursuant to § 1050.51(b), and the Class II butterfat differential, pursuant to § 1050.52(b), both for the preceding month; and
- (2) The 12th day after the end of each month, the uniform price, pursuant to § 1050.71, and the producer butterfat differential, pursuant to § 1050.81.

- (i) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class;
- (k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1050.45(a)(9) and the corresponding step of § 1050.45(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

- (1) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1050.45 pursuant to such report and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and
- (m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

Reports

§ 1050.30 REPORTS OF RECEIPTS AND UTILIZATION.

Not later than the 7th day after the end of the month, each handler shall report to the market administrator, in the detail and on the forms prescribed by the market administrator, the following information for the preceding month:

- (a) Each handler operating a pool plant(s) shall report separately for each pool plant:
 - (1) The quantities of skim milk and butterfat contained in:
 - (i) Milk received directly from producers showing separately any milk of the handler's own farm production;
 - (ii) Milk received from a cooperative association pursuant to § 1050.9(d);
 - (iii) Fluid milk products received from other pool plants; and
 - (iv) Other source milk;
 - (2) The inventories of skim milk and butterfat on hand at the beginning and the end of the month;
 - (3) The utilization of all skim milk and butterfat required to be reported by this section, including a separate statement of the route disposition of Class I milk outside the marketing area and a statement showing separately in-area and outside area route disposition of filled milk;
 - (4) The name and address of each producer from whom milk was received with statements showing dates on which such producer started shipping and the date on which milk shipments stopped; and

- (5) Such other information with respect to the receipts and utilization of milk and milk products (including filled milk) as the market administrator may require;
- (b) Each cooperative association shall report with respect to milk for which it is the handler pursuant to either § 1050.9 (c) or (d):
 - (1) The quantities of skim milk and butterfat received from producers;
 - (2) The utilization of skim milk and butterfat for which it is the handler pursuant to § 1050.9(c);
 - (3) The quantities of skim milk and butterfat delivered to each pool plant pursuant to § 1050.9(d); and
 - (4) Such other information with respect to receipts and utilization as the market administrator may prescribe;
- (c) Each handler specified in § 1050.9(b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of producer milk; such report shall include a separate statement showing Class I disposition on routes in the marketing area of each of the following: skim milk and butterfat, respectively, in fluid milk products and the quantity thereof which is reconstituted skim milk; and
- (d) Each handler operating a nonpool supply plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1050.31 OTHER REPORTS.

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

§ 1050.32 PAYROLL REPORTS.

- (a) On or before the 20th day after the end of the month, each handler operating a pool plant for each of his pool plants and each cooperative association which is a handler pursuant to § 1050.9(c) or (d) shall report to the market administrator his producer payroll for that month, which shall show for each producer:
 - (1) His name and, if not previously reported, post office address and farm location (county) for each producer;
 - (2) The total pounds of milk received from such producer;

- (3) The plant at which such milk was received;
 - (4) The days for which milk was received from such producer;
 - (5) The average butterfat content of such milk; and
 - (6) The net amount of the handler's payment to each producer and cooperative association, together with the price paid and the amount and nature of any deduction.
- (b) Each handler operating a partially regulated distributing plant who does not elect to make payments as required pursuant to § 1050.62(b) shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received, the same information as required pursuant to paragraph (a) of this section.

§ 1050.33 REPORTS TO COOPERATIVE ASSOCIATIONS.

Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to § 1050.80(b) shall report to such cooperative association for each such producer on forms approved by the market administrator as follows:

- (a) On or before the 7th day after the end of the month (1) the total pounds of milk received from each producer together with the butterfat content of such milk, and (2) the amount or rate and nature of any deductions authorized by a cooperative association.

Classification

§ 1050.40 SKIM MILK AND BUTTERFAT TO BE CLASSIFIED.

All skim milk and butterfat to be reported by each handler pursuant to § 1050.30 shall be classified each month by the market administrator pursuant to the provisions of §§ 1050.41 through 1050.46.

§ 1050.41 CLASSES OF UTILIZATION.

Subject to the conditions set forth in §§ 1050.42 to 1050.46 the classes of utilization shall be as follows:

- (a) Class I milk. Class I shall be all skim milk and butterfat:

- (1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2), (3), (4), and (6) of this section. Fluid milk products which have been fortified by the addition of nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unmodified product of the same nature and butterfat content;

(2) In inventory of fluid milk products in packaged form on hand at the end of the month; and

(3) Not accounted for as Class II.

(b) Class II milk. Class II shall be:

(1) All skim milk and butterfat used to produce any product other than a fluid milk product;

(2) All skim milk and butterfat disposed of in bulk to commercial food processors and used in a food product prepared for consumption off the premises;

(3) All skim milk and butterfat authorized by the market administrator to be dumped;

(4) All skim milk and butterfat accounted for as disposed of for livestock feed;

(5) The inventories of bulk fluid milk products on hand at the end of the month;

(6) The skim milk and butterfat contained in that portion of "fortified" fluid milk products not classified as Class I pursuant to paragraph (a)(1) of this section;

(7) Contained in shrinkage of skim milk and butterfat, respectively, prorated pursuant to § 1050.46(b)(1) for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1050.9(c) and (d), not to exceed the quantities calculated pursuant to subdivisions (i) through (viii) of this subparagraph:

(i) Two percent of receipts of skim milk and butterfat from producers (including receipts by a cooperative association pursuant to § 1050.9(d)) and milk diverted in bulk tank lots pursuant to § 1050.14; plus

(ii) One and one-half percent of fluid milk products received in bulk from other pool plants; plus

(iii) One and one-half percent of milk received in bulk from cooperative associations in their capacity as handlers pursuant to § 1050.9(d) except that if the handler operating the pool plant files with the market administrator, prior to the 1st day of the month, notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank

calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be 2 percent; plus

- (iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus
- (v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less
- (vi) One and one-half percent of bulk transfers of milk to a pool plant of another handler (in the case of a cooperative association selling milk to a handler on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph, the percentage shall be 2 percent); less
- (vii) One and one-half percent of bulk transfers of milk to nonpool plants; less
- (viii) One and one-half percent of milk diverted to nonpool plants (in the case of a nonpool plant receiving the milk on the basis of farm weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph the percentage shall be 2 percent); and

- (8) In shrinkage of skim milk and butterfat assigned pursuant to § 1050.46(b)(2).

§ 1050.43 TRANSFERS AND DIVERSIONS.

Skim milk or butterfat transferred or diverted in the form of a fluid milk product shall be classified:

- (a) At the utilization indicated by both handlers, otherwise as Class I milk, if transferred or diverted from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

- (1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1050.45(a)(9) and the corresponding step of § 1050.45(b);
 - (2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1050.45(a)(4) and the corresponding step of § 1050.45(b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and
 - (3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1050.45(a)(8) and (9) and the corresponding steps of § 1050.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;
- (b) As Class I milk, if transferred from a pool plant to a producer-handler;
- (c) As Class I milk, if transferred in packaged form to a nonpool plant which is not an other order plant;
- (e) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:
- (1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1050.30 for the month within which such transaction occurred;
 - (2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and
 - (3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

- (i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;
 - (ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such non-pool plant;
 - (iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph (exclusive of transfers of fluid milk products to pool plants and other order plants) shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular sources of supply for such non-pool plant and Class I utilization (including transfers of fluid milk products to pool plants and other order plants) in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and
 - (iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class II milk; and
- (f) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:
- (1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

- (2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);
- (3) If the operators of both the transferor and the transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;
- (4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I subject to adjustment when such information is available;
- (5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and skim milk and butterfat allocated to other classes shall be classified as Class II;
- (6) If the form in which any fluid milk product is transferred or diverted to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1050.41; and
- (g) As Class II if diverted to an other order plant if the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators and sufficient Class II utilization (or comparable utilization under such other order) is available in the other order plant for such assignment after assignment of milk transferred pursuant to paragraph (f) of this section subject to the rules of allocation of the other order.

§ 1050.44 COMPUTATION OF SKIM MILK AND BUTTERFAT IN EACH CLASS.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1050.30(a) and (b) and compute the total pounds of skim milk and butterfat, respectively, in each class: Provided, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be a quantity equivalent to the non-fat milk solids contained in such product plus all of the water originally associated with such solids. Such computations shall be as follows:

- (a) If any fluid milk products to be allocated pursuant to § 1050.45(a)(8) or (9) were received at any pool plant of a handler, there will be computed for such handler the total pounds of skim milk and butterfat, respectively, in each class at all of his pool plants combined, exclusive of any classification based upon movements between such plants, and allocation pursuant to § 1050.45 and computation of obligation pursuant to § 1050.70 shall be based upon the combined utilization so computed;
- (b) If no fluid milk products to be allocated pursuant to § 1050.45(a)(8) or (9) were received at any pool plant of a handler, the total pounds of skim milk and butterfat, respectively, in each class will be computed for each pool plant of such handler, and allocation pursuant to § 1050.45 shall be made separately for each pool plant of the handler; and
- (c) There will be computed for each cooperative association reporting pursuant to § 1050.30(b) the total pounds of skim milk and butterfat, respectively, in producer milk for which it is the handler pursuant to § 1050.9(c) and (d). The amounts so determined shall be those used for computation pursuant to § 1050.45(c).

§ 1050.45 ALLOCATION OF SKIM MILK AND BUTTERFAT CLASSIFIED.

After making the computations pursuant to § 1050.44, the market administrator shall determine the classification of producer milk for each handler at all his pool plants (or at each pool plant, when § 1050.44(b) applies) as follows:

- (a) Skim milk shall be allocated in the following manner:
 - (1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1050.41(b)(7).
 - (1a) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;
 - (2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (4)(v) of this paragraph, as follows:

- (i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and
 - (ii) From Class I milk, the remainder of such receipts;
- (3) Subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk in inventory of fluid milk products in packaged form on hand at the beginning of the month;
- (4) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:
 - (i) Other source milk in a form other than that of a fluid milk product;
 - (ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established and receipts of fluid milk products from unidentified sources;
 - (iii) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal order;
 - (iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants that were not subtracted pursuant to subparagraph (1a) of this paragraph; and
 - (v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;
- (5) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II;
 - (i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraph (1a) or (4)(iv) of this paragraph, for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

- (ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraph (1a) or (4)(iv) of this paragraph, which are in excess of the pounds of skim milk determined as follows:
 - (a) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25; and
 - (b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants, that were not subtracted pursuant to subparagraph (4)(v) of this paragraph;
- (iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, that were not subtracted pursuant to subparagraph (4)(v) of this paragraph, in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II, if Class II utilization was requested by the transferee handler and the operator of the transferor plant requests such utilization;
- (6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of bulk fluid milk products on hand at the beginning of the month;
- (7) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;
- (8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (1a), (4)(iv) or (5) (i) and (ii) of this paragraph;

- (9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs (4)(v) or (5)(iii) of this paragraph pursuant to the following procedure:
- (i) Subject to the provisions of subdivision (ii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:
 - (a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1050.22(k); or
 - (b) The pounds of skim milk in each class remaining at all pool plants of the handler;
 - (ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;
- (10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers (and of the same handler, when § 1050.44(b) applies) according to the classification assigned pursuant to § 1050.43(a); and
- (11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";
- (b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and
 - (c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section and § 1050.44(c) into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1050.46 SHRINKAGE.

The market administrator shall:

- (a) Compute the total shrinkage of skim milk and butterfat, respectively, at each pool plant; and
- (b) If other source milk is received at the pool plant, shrinkage at such plant shall be prorated between:
 - (1) Skim milk and butterfat, respectively, in the amounts of receipts used in the computations pursuant to § 1050.41(b)(7); and
 - (2) Skim milk and butterfat in other source milk in bulk fluid form, exclusive of that specified in § 1050.41(b)(7).

Minimum Prices

§ 1050.50 BASIC FORMULA PRICE.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month. Such price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices from the effective date hereof the basic formula price shall not be less than \$4.33.

§ 1050.51 CLASS PRICES.

The respective minimum prices per hundredweight to be paid by each handler, f.o.b. his plant, for milk received from producers or from a cooperative association during the month shall be as follows:

- (a) Class I price. The Class I price shall be the basic formula price for the preceding month plus \$1.19 and plus an additional 20 cents; and
- (b) Class II price. The Class II price shall be the basic formula price for the month.

§ 1050.52 BUTTERFAT DIFFERENTIALS TO HANDLERS.

For each class of milk containing more or less than 3.5 percent butterfat, the class price calculated pursuant to § 1050.51 shall be increased or decreased, respectively, for each one-tenth of a percent of butterfat at a rate, rounded to the nearest one-tenth cent, determined as follows:

- (a) Class I price. Multiply the Chicago butter price for the preceding month by 0.12;
- (b) Class II price. Multiply the Chicago butter price for the month by 0.115.

§ 1050.53 LOCATION ADJUSTMENTS TO HANDLERS.

- (a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant that is outside Zone I shall be adjusted as follows:
- (1) At a plant in Zone II or in the Illinois counties of Henry and Mercer, the Class I price shall be decreased 5 cents; and
 - (2) At a plant located outside the State of Illinois, or in the State of Illinois but north of the northernmost boundaries of the counties of Mercer, Henry, Bureau, LaSalle, Grundy, and Kankakee the Class I price shall be reduced 7.5 if such plant is 50 or more miles by the shortest highway distance, as determined by the market administrator from the City Hall in Peoria, Ill., plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles; and
- (b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant only to the extent that 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1050.9(d), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1050.54 USE OF EQUIVALENT PRICES.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

Application of Provisions

§ 1050.60 PRODUCER-HANDLERS.

Sections 1050.40 through 1050.54 and 1050.61 through 1050.90 shall not apply to a producer-handler.

§ 1050.61 PLANTS SUBJECT TO OTHER FEDERAL ORDERS.

In the case of a handler in his capacity as operator of a plant specified in paragraphs (a), (b), and (c) of this section the provisions of this part shall not apply except as specified in paragraphs (d) and (e):

- (a) A distributing plant qualified pursuant to § 1050.12(a) which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products, except filled milk, is disposed of during the month from such plant as Class I route disposition in the marketing area regulated by the other order than as Class I route disposition in the Central Illinois marketing area: Provided, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such Class I route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this paragraph;
- (b) A distributing plant qualified pursuant to § 1050.12(a) which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk, except filled milk, is disposed of during the month in the Central Illinois marketing area as Class I route disposition than as Class I route disposition in the other marketing area, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation even though such plant has greater Class I route disposition in the marketing area of the Central Illinois order;
- (c) Any plant qualified pursuant to § 1050.12(c) for any portion of the period of February through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act;
- (d) Each handler operating a plant described in paragraph (a), (b), or (c) of this section shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at such plant, report to the market administrator at such time and in such manner as the market administrator may require (in lieu of reports pursuant to §§ 1050.30 through 1050.32) and allow verification of such reports by the market administrator; and
- (e) Each handler operating a plant specified in paragraph (a) or (b) of this section, if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:
- (1) Determine the quantity of reconstituted skim milk in filled milk disposed of on routes in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk

in filled milk is disposed of from such plant on routes in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area; and

- (2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant (not to be less than the Class II price) and subtract its value at the Class II price.

§ 1050.62 OBLIGATIONS OF HANDLER OPERATING A PARTIALLY REGULATED DISTRIBUTING PLANT.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1050.30(c) and 1050.32(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

- (a) An amount computed as follows:

- (1) (i) The obligation that would have been computed pursuant to § 1050.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class II price. No obligation shall apply to Class I milk transferred to a pool plant or to an other order plant if such Class I utilization is assigned to receipts at the partially regulated distributing plant from pool plants and other order plants where such milk was classified and priced as Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1050.70(f)

and a credit in the amount specified in § 1050.84(b)(2) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class II price, unless an obligation with respect to such plant is computed as specified below in this subparagraph; and

- (ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1050.30(c) and 1050.32(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1050.12(b) and (c), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

- (2) From this obligation there will be deducted the sum of:

- (i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and
- (ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

- (b) An amount computed as follows:

- (1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;
- (2) Deduct the respective amounts of skim milk and butterfat received at the plant:

- (i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and
 - (ii) From a nonpool plant that is not an other order plant (or producer-handler plant) to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;
- (3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area;
 - (4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and
 - (5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), less the value of such skim milk at the Class II price.

Determination of Uniform Price to Producers

§ 1050.70 COMPUTATION OF THE NET POOL OBLIGATION OF EACH POOL HANDLER.

The net pool obligation of each pool handler (for each pool plant when § 1050.44(b) applies) during each month shall be a sum of money computed by the market administrator as follows:

- (a) With respect to producer milk received by a pool handler (excluding milk received by diversion from another pool plant), multiply the quantity in each class as computed pursuant to § 1050.45(c) by the applicable class prices (adjusted pursuant to §§ 1050.52 and 1050.53) excluding in the case of a cooperative association as a handler pursuant to § 1050.9(d), milk received by it and delivered to the pool plant of another handler;
- (b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1050.45(a)(11) and the corresponding step of § 1050.45(b) by the applicable class prices;

- (c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.45(a)(6) and the corresponding step of § 1050.45(b);
- (d) Add an amount determined by multiplying the difference between the Class I price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.45(a)(3) and the corresponding step of § 1050.45(b). If the Class I price for the current month is less than the Class I price for the preceding month the result shall be a minus amount;
- (e) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1050.45(a)(4) and the corresponding step of § 1050.45(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1050.45(a)(4) (iv) and (v) and the corresponding steps of § 1050.45(b) the Class I price shall be adjusted to the location of the transferor plant (but not to be less than the Class II price); and
- (f) Add an amount equal to the value at the Class I price, adjusted for location at the nearest nonpool plant(s) from which an equivalent volume was received, but not to be less than the Class II price, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1050.45(a)(8) and the corresponding step of § 1050.45(b) (excluding skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order).

§ 1050.71 COMPUTATION OF THE UNIFORM PRICE.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at plants at which no location adjustment pursuant to § 1050.53 is applicable as follows:

- (a) Combine into one total the values computed pursuant to § 1050.70 for all handlers who filed the reports prescribed by § 1050.30 for the month and who made the payments pursuant to § 1050.84 for the preceding month;
- (b) Add an amount equal to the sum of the location and zone differentials computed pursuant to § 1050.82;

- (c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1050.81 and multiplying the result by the total hundredweight of such milk;
- (d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;
- (e) Divide the resulting amount by the sum of the following for all handlers included in these computations:
- (1) The total hundredweight of producer milk; and
 - (2) The total hundredweight for which a value is computed pursuant to § 1050.70(f);
- (f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;
- (g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;
- (h) Subtract in the case of milk delivered during each of the months of March and July an amount equal to 15 cents per hundredweight and during each of the months of April, May, and June an amount equal to 25 cents per hundredweight of producer milk specified in paragraph (e)(1) of this section;
- (i) Add in the case of milk delivered during each of the months of September and December 20 percent and during each of the months of October and November 30 percent of the total amount subtracted pursuant to paragraph (h) of this section;
- (j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and
- (k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

Payments

§ 1050.80 TIME AND METHOD OF PAYMENT FOR PRODUCER MILK.

- (a) On or before the 20th day of the following month, each handler shall make payment to each producer for milk received from such producer during such month:

- (1) An amount equal to not less than the uniform price adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:
- (i) Less marketing service deductions made pursuant to § 1050.88;
 - (ii) Plus or minus adjustments for errors made in previous payments made to such producer; and
 - (iii) Less proper deductions authorized in writing by such producer: Provided, That, if by such date, such handler has not received full payment from the market administrator pursuant to § 1050.85 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;
- (b) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1050.5 or its duly authorized agent, which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing. Such handler shall, on or before the 18th day of the following month pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the amount due such producer-members as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: Provided, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;
- (c) On or before the 18th day after the end of each month, each handler shall pay to each cooperative association for milk the handler receives from a pool plant(s) operated by such association, not less than the minimum prices for milk in each class, subject to the applicable location and butterfat differentials; and
- (d) On or before the 18th day of the following month, each handler, in his capacity as operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1050.9(d) shall pay such cooperative association for such milk at the uniform price adjusted by applicable butterfat and location adjustments.

§ 1050.81 BUTTERFAT DIFFERENTIAL TO PRODUCERS.

In making payments for milk received from producers pursuant to § 1050.80 the uniform price shall be adjusted by adding or subtracting, respectively, for each one-tenth of 1 percent by which the average butterfat content of such milk is more or less than 3.5 percent, respectively, an amount determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined by § 1050.52, dividing by the total butterfat in producer milk, and rounding to the nearest tenth of a cent.

§ 1050.82 LOCATION DIFFERENTIALS TO PRODUCERS AND ON NONPOOL MILK.

- (a) In making payments pursuant to § 1050.80 the uniform price per hundredweight for producer milk received at a plant outside Zone I shall be adjusted according to the location of the plant at the rates set forth in § 1050.53.
- (b) For purposes of computation pursuant to §§ 1050.84 and 1050.85 the weighted average price shall be adjusted in the same manner as the uniform price is adjusted pursuant to paragraph (a) of this section for the location of the nonpool plant from which the milk was received.

§ 1050.83 PRODUCER-SETTLEMENT FUND.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," which shall function as follows:

- (a) All payments made by handlers pursuant to §§ 1050.61, 1050.62, 1050.84, and 1050.86 shall be deposited in such fund and out of which shall be made all payments pursuant to §§ 1050.85 and 1050.86: Provided, That any payments due to any handler shall be offset by any payments due from such handler; and (b) all amounts subtracted pursuant to § 1050.71(h) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1050.80 in accordance with the requirements of § 1050.71(i).

§ 1050.84 PAYMENTS TO THE PRODUCER-SETTLEMENT FUND.

On or before the 15th day after the end of the month each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

- (a) The sum of the net pool obligation computed pursuant to § 1050.70 for such handler;
- (b) The sum of:
 - (1) The value of producer milk received by such handler at the applicable uniform prices specified in § 1050.80 excluding in the case of a cooperative association as a pool handler pursuant to § 1050.9(d) the value of milk delivered to pool plants of other handlers; and

- (2) The value at the weighted-average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1050.70(f).

§ 1050.85 PAYMENTS OUT OF THE PRODUCER-SETTLEMENT FUND.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1050.84(b) exceeds the amount computed pursuant to § 1050.84(a). The market administrator shall offset any payment due any handler against payments due from such handler.

§ 1050.86 ADJUSTMENT OF ACCOUNTS.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1050.87 EXPENSE OF ADMINISTRATION.

As his pro rata share of the expense of administration of the order, each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1050.9(d) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 20th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

- (a) Producer milk (including such handler's own production).
- (b) Other source milk allocated to Class I pursuant to § 1050.45(a) (4) and (8) and the corresponding steps of § 1050.45(b), except other source milk on which no handler obligation applies pursuant to § 1050.70(f); and
- (c) Class I milk disposed of on routes in the marketing area from partially regulated distributing plants that exceeds Class I milk specified in § 1050.62(b)(2).

§ 1050.88 MARKETING SERVICES.

- (a) Deduction of marketing services. Except as set forth in paragraph (b) of this section, each handler in making payments to producers, pursuant to § 1050.80, shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the month, and shall pay such deductions to the market administrator on or before the 20th day after the end of such month.

Such monies shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

- (b) Producers cooperative association. In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section each handler, in lieu of the deduction specified in paragraph (a) of this section, shall make such marketing service deductions as are authorized by producer-members, and pay the money so deducted to the cooperative association on or before the 20th day after the end of the month.

§ 1050.89 ADJUSTMENT OF OVERDUE ACCOUNTS.

Any unpaid obligation of a handler pursuant to § 1050.84, § 1050.87, or § 1050.88 shall be increased one-half of 1 percent for each month or portion thereof that such payment is overdue.

APPENDIX

[illegible]

SCALE IN MILES
0 100 200 300
ALBERS EQUAL-AREA PROJECTION

Rev. CASE 911-71(1) (Rev.)

CONSUMER AND MARKETING SERVICE¹

PART 1000 GENERAL PROVISIONS OF FEDERAL MILK MARKETING ORDERS

Sec.

- 1000.1 Scope and purpose of Part 1000.
- 1000.2 Definitions.
- 1000.3 Market administrator.
- 1000.4 Continuity and separability of provisions.
- 1000.5 Handler responsibility for records and facilities.
- 1000.6 Termination of obligations.

§ 1000.1 Scope and purpose of Part 1000.

This part sets forth certain terms, definitions, and provisions which shall be common to and part of each Federal milk marketing order except as specifically defined otherwise, or modified, or otherwise provided, in an individual order.

§ 1000.2 Definitions.

The following terms shall have the following meanings as used in the order:

- (a) Act. "Act" means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).
- (b) Order. "Order" means the applicable part of Title 7 of the Code of Federal Regulations issued pursuant to section 8c of the Act as a Federal milk marketing order (as amended).
- (c) Department. "Department" means the U.S. Department of Agriculture.
- (d) Secretary. "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.
- (e) Person. "Person" means any individual, partnership, corporation, association, or other business unit.

§ 1000.3 Market administrator.

- (a) Designation. The agency for the administration of the order shall be a market administrator selected by the Secretary and subject to removal at the Secretary's discretion. The market administrator shall be entitled to compensation determined by the Secretary.
- (b) Powers. The market administrator shall have the following powers with respect to each order under his administration:
 - (1) Administer the order in accordance with its terms and provisions;
 - (2) Make rules and regulations to effectuate the terms and provisions of the order;
 - (3) Receive, investigate, and report complaints of violations to the Secretary; and
 - (4) Recommend amendments to the Secretary.
- (c) Duties. The market administrator shall perform all the duties necessary to administer the terms and provisions of each order under his administration, including, but not limited to, the following:

(1) Execute and deliver to the Secretary a bond covering himself and a bond covering any person designated by the Secretary to act in his stead. The respective bond shall be:

(i) Delivered within 45 days after he (or the acting market administrator) enters upon his duties;

(ii) Effective as of the date he (or the acting market administrator) enters upon his duties;

(iii) Conditioned upon the faithful performance of the market administrator's duties; and

(iv) In an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of persons necessary to enable him to exercise his powers and perform his duties;

(3) Pay out of funds provided by the administrative assessment, except expenses associated with functions for which the order provides a separate charge, all expenses necessarily incurred in the maintenance and functioning of his office and in the performance of his duties, including his own bond and compensation and the necessary bonds of his employees;

(4) Keep records which will clearly reflect the transactions provided for in the order, and upon request by the Secretary, surrender the records to his successor or such other person as the Secretary may designate;

(5) Furnish information and reports requested by the Secretary and submit his records to examination by the Secretary;

(6) Announce publicly at his discretion, unless otherwise directed by the Secretary, by such means as he deems appropriate, the name of any handler who, after the date upon which he is required to perform such act, has not:

(i) Made reports required by the order;

(ii) Made payments required by the order; or

(iii) Made available records and facilities as required pursuant to § 1000.5;

(7) Prescribe reports required of each handler under the order. Verify such reports and the payments required by the order by examining records (including such papers as copies of income tax reports, fiscal and product accounts, correspondence, contracts, documents or memoranda of the handler, and the records of any other persons that are relevant to the handler's obligation under the order), by examining such handler's milk handling facilities; and by such other investigation as the market administrator deems necessary for the purpose of ascertaining the correctness of any report or any obligation under the order. Reclassify skim milk and butterfat received by any handler if such examination and investigation discloses that the original classification was incorrect.

(8) Furnish each regulated handler a written statement of such handler's accounts with the market administrator promptly each month. Furnish a corrected statement to such handler if verification discloses that the original statement was incorrect; and

(9) Prepare and disseminate publicly for the benefit of producers, handlers, and consumers such statistics and other information concerning operation of the order and facts relevant to the provisions thereof (or proposed provisions) as do not reveal confidential information.

§ 1000.4 Continuity and separability of provisions.

(a) Effective time. The provisions of the order or any amendment to the order shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) Suspension or termination. The Secretary shall suspend or terminate any or all of the provisions of the order whenever he finds that such provision(s) obstructs or does not tend to effectuate the declared policy of the Act. The order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

(c) Continuing obligations. If upon the suspension or termination of any or all of the provisions of the order, there are any obligations arising under the order, the final accrual or ascertainment of which requires acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination.

(d) Liquidation. (1) Upon the suspension or termination of any or all provisions of the order, the market administrator, or such other liquidating agent designated by the Secretary, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(2) If a liquidating agent is so designated, all assets and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

(e) Separability of provisions. If any provision of the order or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of the order to other persons or circumstances shall not be affected thereby.

§ 1000.5 Handler responsibility for records and facilities.

Each handler shall maintain and retain records of his operations and make such records and his facilities available to the market administrator. If adequate records of a handler, or of any other persons, that are relevant to the obligation of such handler are not maintained and made available, any skim milk and butterfat required to be reported by such handler for which adequate records are not available shall not be considered accounted for or established as used in a class other than the highest priced class.

(a) Records to be maintained. (1) Each handler shall maintain records of his operations (including, but not limited to, records of purchases, sales, processing, packaging, and disposition) as are necessary to verify whether such handler has any obligation under the order, and if so, the amount of such obligation. Such records shall be such as to establish for each plant or other receiving point for each month:

(i) The quantities of skim milk and butterfat contained in, or represented by, products received in any form, including inventories on hand at the beginning of the month, according to form, time, and source of each receipt;

(ii) The utilization of all skim milk and butterfat showing the respective quantities of such skim milk and butterfat in each form disposed of or on hand at the end of the month; and

(iii) Payments to producers, dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

(2) Each handler shall keep such other specific records as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(b) Availability of records and facilities. Each handler shall make available all records pertaining to such handler's operations and all facilities the market administrator finds are necessary for such market administrator to verify the information required to be reported by the order and/or to ascertain such handler's reporting, monetary, or other obligation under the order. Each handler shall permit the market administrator to weigh, sample, and test milk and milk products and observe plant operations and equipment and make available to the market administrator such facilities as are necessary to carry out his duties.

(c) Retention of records. All records required under the order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such records pertain. If, within such 3-year period, the market administrator notifies the handler in writing that the retention of such records, or of specified records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such records, or specified records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 1000.6 Termination of obligations.

The provisions of this section shall apply to any obligation under the order for the payment of money:

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of the order shall terminate 2 years after the last day of the month during which the market administrator receives the handler's report of receipts and utilization on which such obligation is based, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such written notice shall be complete upon mailing to the handler's last known address and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) on which such obligation is based; and

(3) If the obligation is payable to one or more producers or to a cooperative association (except an obligation to be prorated to producers under an individual handler pool), the name of such producer(s) or such cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under the order, to make available to the market administrator all records required by the order to be made available, the market administrator may notify the handler in writing, within the 2-year period provided for in paragraph (a) of this section, of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such records pertaining to such obligation are made available to the market administrator;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under the order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Unless the handler files a petition pursuant to section 8c(15)(A) of the Act and the applicable rules and regulations (7 CFR 900.50 et seq.) within the applicable 2-year period indicated below, the obligation of the market administrator:

(1) To pay a handler any money which such handler claims to be due him under the terms of the order shall terminate 2 years after the end of the month during which the skim milk and butterfat involved in the claim were received; or

(2) To refund any payment made by a handler (including a deduction or offset by the market administrator) shall terminate 2 years after the end of the month during which payment was made by the handler.

